IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

APPEAL FROM ORDER NO.983 OF 2004
IN
NOTICE OF MOTION NO.4560 OF 2004
IN
S.C.SUIT NO.5211 OF 2004

Magdoline M.D'Souza and others)..Appellants

Versus

Luis M.D'Souza and others)..Respondents

Mr.A.M.Sarogi i/b.Mr.D.R.Tiwari for the Appellants.

Mr.A.Y.Sakhare i/b.Mr.Manojkumar Upadhyay for Respondent No.2.

Mr.N.P.Bhavsar for Respondent No.4.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 30TH NOVEMBER 2004

P.C.:

. This Appeal From Order challenges the order passed by the trial Court refusing to grant ad-interim injunction. According to the Defendants, the suit property, which has been purchased by them sometime in 1965, admeasures 1064 sq.yds. The Defendants, therefore, have submitted before me that the trial Court's order should not be interfered with as the old bungalow of which they are in possession is going to be developed. A statement is made before me on behalf of the Defendants that the formalities are yet to be completed with the Mumbai Municipal Corporation and the other authorities

for development of the suit premises.

2. In my view, rather than interfering with the order passed by the trial Court at this stage, the formalities regarding construction, such as, acquiring an I.O.D. and other permissions, etc., may be completed by the Defendants. However, no demolition of the bungalow or construction will commence on the property till the Notice of Motion is heard. The Notice of Motion shall be heard and disposed of by 31st January 2005. The pleadings shall be completed by either parties by 17th December 2004.

3. Appeal From Order disposed of accordingly.

4. In view of the Appeal From Order being disposed of, nothing survives in Civil Application No.1359 of 2004 and the same is disposed of accordingly.

5. Parties to act on an authenticated copy of this order.